

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 92-606-C - ORDER NO. 93-489 ✓  
JUNE 3, 1993

IN RE: Generic Proceeding to Review       ) ORDER DEFERRING USE  
      the Use of N11 Service Codes.       ) AND ASSIGNMENT OF  
  ) N11 SERVICE CODES

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Commission's decision to review the use of N11 Service Codes by enhanced service and information providers. In response to several telecommunications service providers requesting assignment of the abbreviated N11 dialing codes, the Commission ordered the Staff to initiate a proceeding to review the N11 access arrangement, and the instant docket was created to receive evidence accordingly. A Notice of Proceeding, dated November 20, 1992, was published in newspapers of general circulation. The Notice expressly named as parties "all local exchange companies" and provided for the participation of any other interested parties upon compliance with the Commission's Rules of Practice and Procedure. Thereafter, pursuant to notice duly provided in accordance with applicable provisions of law and with the Commission's Rules and Regulations, a public hearing was set for April 28, 1993, in the Commission's Hearing Room at 10:30 A.M. to receive evidence in this matter.

The hearing was duly convened before the Commission, the Honorable Henry G. Yonce, presiding. Local Exchange Carriers (LECs) participating in the proceedings were Southern Bell, represented by Harry Lightsey, III, Esquire, Caroline N. Watson, Esquire, and William F. Austin, Esquire, and GTE represented by M. John Bowen, Esquire, and Kim Caswell, Esquire. M. John Bowen, Jr., Esquire, also appeared on behalf of the South Carolina Telephone Coalition (SCTC); Elliott F. Elam, Esquire, appeared on behalf of the South Carolina Department of Consumer Affairs (the Consumer Advocate); Francis P. Mood, Esquire, and Henry White, Esquire, represented AT&T Communications (AT&T); and Frank R. Ellerbe, III, Esquire, appeared on behalf of Infodial, Inc. (Infodial). Also, Wallace K. Lightsey, Esquire, appeared on behalf of Multimedia Newspaper Company (Multimedia), and D. Christian Goodall, Esquire, and Martha McMillan, Esquire, appeared on behalf of MCI. F. David Butler, General Counsel, and Florence P. Belser, Staff Counsel, represented the Commission Staff. Knight-Ridder, Sprint Communications Co. LP (Sprint), Bryantek, and John W. Rabb, Jr. also filed as intervenors in this docket but did not participate in the hearing.

The Commission established this docket to institute a generic proceeding to address the issues surrounding the assignment and use of N11 service codes. The Commission has received petitions and other correspondence from enhanced service providers (ESPs), information service providers, and individuals interested in the assignment of these abbreviated dialing codes. Therefore, this

Commission instituted these proceedings to determine if the assignment of these abbreviated dialing codes is in the public interest and to review any other matters related to the use of these codes. The Commission considered the testimony of witnesses testifying on behalf of Southern Bell, GTE, the South Carolina Telephone Coalition, Infodial, Multimedia, and MCI. Additionally, the Commission received the testimony of two public witnesses: Mr. Charlie McKinney, Executive Director of the South Carolina Association of the Deaf and Ms. Nettie S. Allen, a member of the national organization, Self Help for Hard of Hearing People.

After due consideration of this matter, and for the reasons set forth hereafter, this Commission believes that the use and assignment of N11 codes should be deferred until a ruling is issued by the Federal Communications Commission (FCC).

As can be seen from the testimony presented, the issue of assignment on N11 service codes is by no means resolved. The two LECs involved in this proceeding are split over this N11 issue. Southern Bell is in favor of assignment of the N11 codes while GTE desires to wait until the FCC has ruled on the issue to avoid inconsistencies in state and federal directives.

Southern Bell presented the testimony of Martha W. Johnson, Staff Manager in the Pricing Department of Bellsouth Telecommunications, Inc. Ms. Johnson testified that since August 1991 information service providers have requested that Southern Bell provide a three-digit dialing arrangement with network-based recording, rating, and billing capabilities, to be used in

offering various pay-per-call information services to the general public. (Johnson, prefiled Testimony, p. 3, ll. 7-12). Under Southern Bell's proposal, N11 service would be limited to five (5) dialing arrangements (211, 311, 511, 711, and 811) in its specified local calling area in South Carolina. (Johnson, Prefiled Testimony, p. 4, ll. 13-16). Southern Bell has expressed concern that the assignment or allocation of N11 codes should be fair, reasonable, and non-discriminatory, and has proposed an allocation methodology which Southern Bell asserts meets that criteria. (Johnson, Prefiled testimony, p. 4, ll. 20-24).

GTE, the only other LEC which was a party to this proceeding, also presented testimony. GTE presented the testimony of Mike Drew, who is the ONA Project Manager, Regulatory Compliance Implementation for GTE Telephone Operations. Mr. Drew testified that N11 service codes are used by some LECs for functions adjunct to basic local telephone service. (Drew, Prefiled Testimony, p. 2, ll. 22-24). Of the eight (8) possible N11 codes (being 211 through 911), only three (3) codes are unassigned on the GTE network. Code 411 is used to access local directory assistance, code 911 is used to access emergency services, and codes 311, 511, and 711 are used by GTE for internal network testing. (Drew, Prefiled testimony, p. 2, l. 24-p. 3, l. 8). Mr. Drew also testified that existing dialing arrangements can be used to offer any service that an enhanced service provider might wish to provide. (Drew, Prefiled Testimony p. 3, ll. 12-14). Mr. Drew also noted that the FCC has received requests for the nationwide

assignment of two N11 codes for access to voice and text telecommunications relay services (TRS), and that GTE plans to begin use of the 511 and 711 codes for this purpose in Hawaii by July 1993, with plans to expand this use of the 511 and 711 codes to the mainland. Mr. Drew also pointed out that Canada is currently using the 511 and 711 codes for TRS. (Drew, Prefiled Testimony, p. 3, l. 20- p. 4, l.2).

In addition to Mr. Drew addressing the possibility of a national N11 code being assigned for relay access, the two public witnesses also addressed this issue. Charlie McKinney, Executive Director of the South Carolina Association of the Deaf, requested that the Commission save the 511 and 711 codes for South Carolina Relay Access. Mr. McKinney stated that forty-nine of the fifty states now have relay services and that all have different access numbers. Nettie Allen also testified as a public witness and asked for consideration of the N11 codes for the hearing impaired. Ms. Allen suggested that in order to allow deaf and hearing impaired people equal access to telecommunications that ways must be found to simplify and speed up access. An N11 code is one way to help the deaf and hearing impaired in this regard. Both Mr. McKinney and Ms. Allen support a national access code for the relay service and further offer that a national access code would also aid tourists and travelers who are in need of the relay service.

This Commission is aware of the application pending before the FCC for national assignment of the 511 and 711 codes for relay

services. With an application of such magnitude pending before the FCC, this Commission believes that it should defer the use and assignment of these Codes until after the FCC has issued a ruling on this issue. To assign the N11 codes on a local basis prior to an FCC ruling could result in inconsistent state and federal rulings which could result in preemption of the state ruling and a recall of any local assignments.

Testifying on behalf of the South Carolina Telephone Coalition (SCTC) was N. Everette Kneece. Mr. Kneece is the President of Pond Branch Telephone Company and has served on the North American Numbering Plan (NANP) Subcommittee for six (6) years. Mr. Kneece testified that the SCTS believes there should be no change in the current use or assignment of N11 service codes at this time. (Kneece, Prefiled Testimony, p. 5, ll. 5-6; p. 10, ll. 16-17). According to Mr. Kneece, N11 service codes are used by LECs for functions relating to basic local exchange telephone service and that the SCTC believes that the general subscriber body of LEC companies would best be served by the continued internal usage of N11 codes for the general subscriber's convenience. (Kneece, Prefiled Testimony, p. 2, l. 18- p. 3, l.9; p. 10, ll. 18-21).

Mr. Kneece concurred with Mr. Drew that assignment of N11 codes prior to a final decision by the FCC in its docket regarding the use of N11 codes could result in inconsistent state and federal directives with federal preemption of any state ruling being a distinct possibility. (Kneece, Prefiled Testimony, p. 4,

11 8-15). Furthermore, Mr. Kneece expressed concern with the difficulties of reassignment of the N11 codes if assignment were allowed and preemption by the FCC should occur. (Kneece, Prefiled Testimony, p. 6, 1.21- p. 7, 1.23).

Mr. Kneece also testified that the NANP Subcommittee, of which Mr. Kneece is currently a member, has taken a position against the allocation of the N11 codes due to the shortage of the codes, and that consideration is being given to utilizing the N11 codes as area codes until alternative numbering schemes can be found. (Kneece, Prefiled Testimony, p. 3, 1.23- p. 4, 1.6). Additionally, Mr. Kneece stated that in July 1992, the Communications Committee of the National Association of Regulatory Utility Commissions issued a resolution opposing that allocation of N11 codes for individual ESPs. NARUC stated as reasons for its position that the N11 codes are scarce public resources whose use should be reserved, that customer confusion and complaints are a likely result of N11 assignment, and that nationwide public service uses for N11 services codes exist (such as access to relay services) and these uses should not be precluded by use of N11 service codes by an ESP. (Kneece, Prefiled Testimony, p. 4, 1.18 - p. 5, 1.2).

MCI presented the testimony of Don Price, Senior Staff Specialist of Southern Region Regulatory and Government Affairs with MCI. Mr. Price also opposes the assignment of N11 service codes. According to Mr. Price, the Commission should defer ruling on the issue until after the FCC has reached a decision in its

case to avoid the possibility of having to revoke the N11 codes assigned in South Carolina subsequent to the FCC's decision. Also Mr. Price states that there is no significant public use to be obtained from N11 service codes which cannot be obtained from using regular telephone numbers. (Price, Prefiled Testimony, p. 2 and p. 7-8).

Speaking in favor of the allocation of N11 codes were the witnesses for Infodial and Multimedia Newspaper Company. Infodial presented as its witness Richard Bell, President of Infodial. Infodial seeks to establish an information directory service accessible to the public so that the public can receive news, weather, sport information, stock quotes, health information and other services. Infodial has petitioned the Commission for assignment of an N11 code in South Carolina. Mr. Bell testified that similar information directories to the one that Infodial is proposing are currently available in Atlanta and Austin, Texas and other cities around the country. (Bell, Prefiled Testimony, p. 4). On cross examination, Mr. Bell revealed that these similar services are being used and accessed by conventional seven digit dialing.

The witnesses for Multimedia Newspaper Company also presented a strong case for allocation of the N11 codes. Multimedia Newspaper Company oversees the operation of the Greenville News-Piedmont Company, and the Greenville News has requested an N11 code from Southern Bell to use for an electronic information service. (Brandt, Prefiled Testimony, p. 2, ll. 2-11; Hearing



Exhibit 6). The Greenville News-Piedmont Company currently has a system called NEWSline which is accessed by dialing a seven digit telephone number. (Hearing Exhibit 7). Cecil B. Kelly, Jr., Director of Operations for Multimedia Newspaper Company, explained that with an N11 code the existing system could be modified to provide "premium" services to the user. (Kelly, Prefiled Testimony, p. 1). Additionally, witnesses for Multimedia acknowledged that other dialing arrangements are available which are used by information and enhanced service providers ( i.e. 976 and 900 service).

While the Commission appreciates the fact that these companies and individuals desire to offer these services to the public, the Commission believes that assignment of N11 codes is premature and not in the public interest at this time. As previously stated, the FCC has before it a docket to consider the allocation of N11 codes on a nation-wide basis. This Commission realizes that an FCC ruling allowing assignment on the national level could preempt any local assignments of N11 codes in South Carolina. Therefore, this Commission will defer a ruling on this issue until the FCC has issued a ruling in the docket pending before it.

Based upon the findings as stated above, the Commission makes the following conclusions of law:

1. That this Commission has jurisdiction over the subject matter of this proceeding by virtue of S.C. Code Regs. 103-821 and S.C. Code Ann. § 58-3-140 (as amended), S.C. Code Ann. § 58-9-720,

and S.C. Code Ann. § 58-9-780.

2. That the assignment and allocation of N11 service codes, other than those codes currently in use by LECs or for emergency services, is not in the public interest at this time and that the use and assignment of N11 service codes be deferred until after the Federal Communications Commission (FCC) has issued a ruling in the docket pending before that commission.

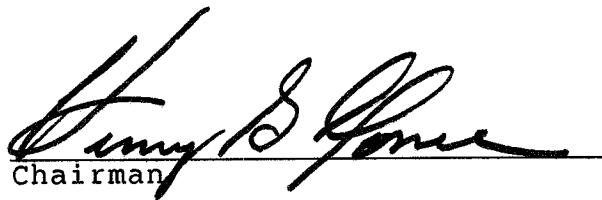
3. That upon issuance of a memorandum or opinion by the FCC, the Commission may re-examine this issue in a future proceeding.

IT IS THEREFORE ORDERED:

1. That N11 service codes, other than those currently in use by LECs for local telephone service or in use for emergency services, may not be assigned or allocated until after the Federal Communications Commission has issued a ruling in the docket pending before that Commission.

2. That this Order remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)